

PATENT  
10/005,828

**D. REMARKS**

*Interview Summary*

On July 19, 2004, Applicants' representative submitted an "Applicant Initiated Interview Request Form" to Examiner Quynh Nguyen via email. Applicants' representative requested discussion of the rejection to claims 1, 2, and 17.

On July 20, 2004 at 3:30 PM est, an interview was conducted via telephone between Amy Pattillo, Applicants' Representative, and Examiners Nguyen and Matar. No exhibits were shown, nor demonstrations conducted.

Applicants' representative and the Examiners discussed claim 1. Specifically, the prior art cited against claim 1 is Rupe et al. (US 2003/0031309). In particular, Applicants' representative argued that Rupe et al. teaches enabling routing of a call to multiple locations providing live attendants, including a remote location, when a call is available to be answered by an attendant, but that the ACD that directs the calls to remote locations is independent of the VRU which provides the interactive functions. Applicants' representative noted that Rupe does not teach transferring the call to remote locations that provide the interactive functions before the call is routed to a live attendant. Thus, Applicants' representative argued that because Rupe does not teach transferring the call to remote locations that provide interactive functions before the call is routed to a live attendant, it would not have been obvious to one of ordinary skill in the art at the time the invention was made to modify the VRU in Rupe's system to be a person or expert at a remote location. The Examiners responded that the modification to Rupe would have been obvious to one of ordinary skill in the art at the time the invention was made. In conclusion, no agreement with respect to the claim was reached.

In addition, Applicants' representative and the Examiners discussed claim 2. Specifically, the prior art cited against claim 2 is Rupe et al (US 2003/0031309) in view of Walker et al (US Patent 6,125,178). In the office action, the Examiner cites Walker's (US Patent 6,125,178) teaching that a caller is given the option to "listen in" to "other callers" as teaching a "query

PATENT  
10/005,828

group expert" of the present invention. Further, in the office action, the Examiner cites that "for example, other callers who are expert in some areas such as travel, insurance, etc." but does not indicate what reference teaches this example. Applicants' representative argued that Walker merely teaches a system where a caller already speaking with a live operator may allow other callers waiting in the hold queue to listen to the conversation or may maintain a private line. Thus, Applicants' representative argued that Walker does not teach a system where callers are experts nor a live operator that is provided as a query group expert. The Examiners responded that the other callers can be experts and that the scope of Walker et al. incorporates other callers as experts. In conclusion, no agreement with respect to the claim was reached.

Further, Applicants' representative and the Examiner discussed claim 17. Claim 17 is rejected for the same reason as claim 2, but claim 2 only addresses the element of an expert as a "query group expert". Claim 17 teaches an expert as a "freelance expert". Thus, Applicants' representative argued that it is improper to reject claim 17 based on the same grounds as the rejection of claim 2. In conclusion, no agreement with respect to the claim was reached.

*Specification*

Although not requested by the Examiner, Applicants have amended the specification above to include the application serial numbers of the related cross-references.

*35 USC § 103(a)***Claims 1, 8, and 15**

Claims 1, 8, and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rupe et al. (2003/0031309). Applicants note that the Examiner carries the burden of proving a *prima facie* case of obviousness for a 103(a) rejection. The Examiner has not met the burden of proving a *prima facie* case for claims 1, 8, and 15, thus the rejection should be withdrawn and the claims should be allowed.

AUS920010948US1

11

PATENT  
10/005,828

*Claim 1 currently reads:*

1.(Original) A method for managing an on hold call comprising:

receiving a call at a call center;

placing said call on hold in a hold queue until a representative of said call center is available to answer said call;

transferring said call to an expert while said call is on hold in said hold queue;  
and

responsive to detecting said call at the top of said hold queue, notifying said caller of an availability of said representative.

The Examiner cites Rupe et al. as teaching the steps of: “receiving a call at a call center (page 1, lines 1-3); placing said call on hold in a hold queue until a representative of the call center is available to answer the call (page 2, [0020]); the call may be routed to remote locations in accordance with the assigned priority (page 1, [0010]); detecting the call at the top of the hold queue, notifying the caller an availability of the representative (page 1, [0011], and page 3, [0031]). [Office Action, p. 2] However, Rupe et al. does not explicitly suggest “transferring the call to an expert while the call is on hold in the hold queue.” [Office Action, p. 2] The Examiner concludes that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the voice response unit (VRU) in Rupe’s system to be a person or “expert” at the remote locations instead of programmed and automated while on hold so that the on hold caller would have his or her question answered by an “expert” while waiting for an available agent.” [Office Action, p. 2]

In establishing a prima facie case of obviousness under 103(a), the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the

PATENT  
10/005,828

combination and the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986). In particular, a prior art reference must be considered in its entirety, i.e. as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert denied*, 469 U.S. 851 (1984). Applicants respectfully propose that when the prior art is considered in its entirety, including portions that would lead away from the claimed invention, it would not have been obvious to modify Rupe et al. as proposed by the Examiner to achieve the claimed invention.

First, Rupe et al. teaches a call center in which a caller is provided the option of selecting from menus to access database information while waiting on hold. The one example of an interactive function provided in the specification is “accessing various audio menus” (Paragraph 0024). Further, other portions of the description refer to the interactive functions provided in the VRU as menus that enable access to a database of information. Enabling a caller to search through a database of information while waiting on hold, as taught by Rupe et al., only provides the caller access to a finite amount of information. Rupe et al. teaches making a caller wait until a call center representative is available to have live operator support in answering a question; Rupe et al. only solves the problem of a caller waiting on hold through pre-recorded information. The present invention solves the problem of a caller having to wait for a call center operator or listen to pre-recorded information by providing the option to connect with an independent expert while waiting on hold for a call center operator. Thus, Applicants respectfully propose that when Rupe et al. is considered as a whole, if it in fact would have been obvious to one skilled in the art at the time the present invention was made to modify audio menus to be live experts, Rupe et al. should have incorporated this feature; there is no motivation to modify Rupe et al. to teach the claimed invention other than an impermissible hindsight afforded by the claimed invention. Further, Applicants respectfully propose that Rupe et al. does not suggest the desirability, and thus does not suggest the obviousness, of solving the problem of a caller waiting for a call center operator, other than providing access to database information.

AUS920010948US1

13

PATENT  
10/005,828

Second, Rupe et al. teaches enabling routing of a call to multiple locations providing live attendants, including a remote location, when a call is available to be answered by an attendant. The ACD that directs the calls to remote locations is independent of the VRU which provides the interactive functions (see Paragraphs 0019 and 0021). Thus, Rupe et al. does not teach transferring the call to remote locations that provide the interactive functions before the call is routed to a live attendant. Thus, because Rupe does not teach transferring the call to remote locations that provide interactive functions before the call is routed to a live attendant, it would not have been obvious to one of ordinary skill in the art at the time the invention was made to modify the VRU in Rupe's system to be a person or expert at a remote location.

Therefore, Applicants urge that Rupe et al. in combination with ordinary skill in the art fails to teach the element of "transferring said call to an expert while said call is on hold in said hold queue" because the references considered as a whole do not suggest the obviousness of the invention. Consequently, reversal of the Examiner's rejection of claim 1 and corresponding system and program claims 8 and 15 is respectfully requested.

#### **Claims 2-6, and 9-13**

Claims 2-6 and 9-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rupe et al. (2003/0031309) in view of Walker et al. (US Patent 6,125,178). Applicants note that the Examiner carries the burden of proving a *prima facie* case of obviousness for a 103(a) rejection. The Examiner has not met the burden of proving a *prima facie* case for claims 2-6 and 9-13, thus the rejection should be withdrawn and the claims should be allowed.

#### *Claims 2 and 9*

Regarding claims 2 and 9, the Examiner cites that Rupe et al. does not teach that "the expert is at least one from among a freelance expert, a query group expert, and an emergency group expert." [Office Action, p. 3] However, the Examiner cites Walker et al. as teaching "while waiting on a hold queue for an available agent, a caller is given an option to "listen in" to other callers" as equivalent to a "query group expert" (col. 6, lines 34-37). For example, other

PATENT  
10/005,828

callers who are expert in some areas such as travel, insurance, etc.” [Office Action, p. 3] And, the Examiner proposes that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features mentioned above, as taught by Walker, in Rupe’s system, in order to allow the on hold caller would have his or her question answered by an expert while waiting for an available agent.” [Office Action, p. 3]

*Claims 2 currently reads:*

2.(Original) The method for managing said on hold call according to claim 1, wherein said expert is at least one from among a freelance expert, a query group expert, and an emergency group expert.

Col. 6, lines 17-38 of Rupe et al. (the Examiner cites lines 34-37) teach a system where if a caller, waiting in a queue, agrees to hear additional information, then the caller may be allowed to “listen-in” to the current communication between an initial caller and a live operator of the call center who has answered the call from the initial caller. In particular, Walker teaches that “the connection of the incoming caller’s line only allows a monitoring of the call in progress” (Walker col. 6, lines 26-28). Further, Walker notes

“that the initial caller who is currently talking to a live operator is provided the option of maintaining a private call. Should the caller not want another party to “listen in”, he can simply designate so at the onset of the connection with the live operator. Call centers may provide callers with some incentive to allow other callers to “listen in”. For example, a caller might receive a discount towards a future purchase for allowing an open line” (Walker col. 6, lines 29-36).

In establishing a *prima facie* case of obviousness under 103(a), the prior art references combined must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Applicants respectfully propose that Walker does not teach what the Examiner cites Walker as teaching and Walker does not teach the element of “query group expert” or the other elements of claim 2.

AUS920010948US1

15

PATENT  
10/005,828

First, the Examiner cites Walker's teaching that a caller is given the option to "listen in" to other callers as teaching a "query group expert" of the present invention. Further, the Examiner cites that "for example, other callers who are expert in some areas such as travel, insurance, etc." but the Examiner does not indicate what reference teaches this example. Applicants respectfully propose that Walker merely teaches a system where a caller already speaking with a live operator may allow other callers waiting in the hold queue to listen to the conversation or may maintain a private line. Walker does not teach a system where callers are experts, nor does Walker teach a system in which a live operator is provided as a query group expert. Thus, Walker does not include the teachings cited by the Examiner to reject claim 2.

Second, Applicants define query related call group 46 that is directed by a query group expert as a group in which callers can communicate with one another and the expert (Detailed Description, p. 14, lines 22-25). Walker only teaches a "listen-in" option for a caller to listen in to the conversation between another caller and a live operator, but does not allow for conversation between callers or between the caller and the live operator. Thus, Walker does not teach or suggest a query group expert where the query group expert, as defined in the detailed description of the present invention.

Therefore, Applicants urge that Rupe et al. in combination with ordinary skill in the art fails to teach or suggest the element of a "query group expert", or any other type of expert. Consequently, reversal of the Examiner's rejection of claim 2 and corresponding system claim 9 is respectfully requested.

*Claims 3 and 10*

Regarding claims 3 and 10, the Examiner cites Walker et al. as teaching that "experts" as query group experts (other callers who allow callers to listen in) as interacting concurrently with a plurality of callers on hold in the hold queue (col. 6, lines 34-37). [Office Action, p. 3]

Claim 3 currently reads:

AUS920010948US1

16

PATENT  
10/005,828

3.(Original) The method for managing said on hold call according to claim 1, wherein said expert interacts concurrently with a plurality of callers on hold in said hold queue.

First, in establishing a prima facie case of obviousness under 103(a), the prior art references combined must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Applicants respectfully propose that Walker does not teach that an expert interacts concurrently with multiple callers on hold in a hold queue. As previously discussed with reference to claim 2, Walker does not teach “experts” because the “other callers who allow callers to listen in” are not experts, these callers are just allowing callers waiting on hold to listen to responses by the live operator. Further, as previously discussed, live operators are not experts because experts interact with callers while the callers are on hold and live operators, as taught by Walker, only answer calls once the callers reach the end of the hold queue. Thus, there is no basis in Walker that teaches or suggests an expert.

Second, in establishing a prima facie case of obviousness under 103(a), the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination and the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986). In particular, a prior art reference must be considered in its entirety, i.e. as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert denied*, 469 U.S. 851 (1984). Walker clearly states that “it is to be noted, however, that the connection of the incoming caller’s line only allows a monitoring of the call in progress call” in describing what type of communication is allowed to the caller waiting in the hold queue. Thus, Walker specifically teaches communication with a caller on hold that is limited to that caller listening and not extended to any interaction between the caller on hold and the other caller and live operator. Therefore, when Walker is considered as a whole, including the teaching against interactive communication, Walker does not teach or suggest the desirability

PATENT  
10/005,828

of making the combination of references with Rupe et al. because Walker teaches against interactive communication.

Therefore, Applicants urge that Walker et al. does not teach or suggest the claimed elements and does not suggest the obviousness of making the combination. Consequently, reversal of the Examiner's rejection of claim 3 and corresponding system claim 10 is respectfully requested.

*Claims 4 and 11*

Applicants respectfully propose that claims 1 and 8 upon which claims 4 and 11 are dependent, are allowable and therefore claims 4 and 11 should be allowed.

*Claims 5, 6, 12 and 13*

Applicants respectfully propose that claims 1 and 8 upon which claims 5, 6, 12 and 13 are dependent, are allowable and therefore claims 5, 6, 12 and 13 should be allowed.

**Claims 7 and 14**

Claims 7 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rupe et al. (2003/0031309) in view of Walker et al. (US Patent 6,125,178) and further in view of Beyda et al. (US Patent 6,404,873). Applicants note that the Examiner carries the burden of proving a *prima facie* case of obviousness for a 103(a) rejection. The Examiner has not met the burden of proving a *prima facie* case for claims 7 and 14, thus the rejection should be withdrawn and the claims should be allowed.

Regarding claims 7 and 14, the Examiner cites that Rupe and Walker "do not teach the callers select to be placed in broadcast queue that manages the order in which callers are allowed to broadcast a question to the expert and the plurality of callers." [Office Action, p. 4] However, the Examiner cites Beyda as teaching that the "voice information generated at the main conference is universally transmitted (col. 2, lines 25-29)" as the equivalent of "multiple caller selecting to be placed in a broadcast queue that manages the order in which the callers are

PATENT  
10/005,828

allowed to broadcast a question to the expert and the other callers.” [Office Action, p. 4] The Examiner proposes that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Beyda’s system so that the callers have the option to broadcast a question. For example, during the sub conference call, at any point the callers decided to broadcast their conversation or allow other callers to listen in they can do so.” [Office Action, p. 4]

Claim 7 currently reads:

7. (Original) The method for managing said on hold call according to claim 3, wherein said plurality of callers select to be placed in a broadcast queue that manages the order in which callers are allowed to broadcast a question to said expert and said plurality of callers.

In establishing a *prima facie* case of obviousness under 103(a), the prior art references combined must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In general, Beyda teaches a method for managing subconference calls within a main conference call, so that members of a conference call can split off into a subconference and discuss a particular topic, while still hearing the voice data transmitted over the main conference call (Beyda, col. 2, lines 16-20). In addition, col. 2, lines 25-29 of Beyda, as cited by the Examiner, teach that “voice information generated at a terminal within the subset is isolated to transmission to other terminals within the subset. However, voice information generated at a terminal participating in the main conference call, but not the first subconference call, is universally transmitted.” Beyda does not teach a main conference or subconference in which an expert answers questions posed by callers. Further, Beyda does not teach managing the order in which caller questions within a main conference call or a subconference call are broadcast. In contrast, the present invention teaches a broadcast queue that manages the order in which caller questions are broadcast to the expert and to other callers. Thus, where Beyda fails to teach or suggest management of caller question broadcasting, and merely refers to how callers are grouped within a conference call, Beyda fails to teach or suggest the limitations of claim 7. Consequently, reversal of the Examiner’s rejection of claim 3 and corresponding system claim 10 is respectfully requested.

AUS920010948US1

19

PATENT  
10/005,828**Claims 16-20**

Claims 16-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rupe et al. (2003/0031309) in view of Beyda et al. (US Patent 6,404,873). Applicants note that the Examiner carries the burden of proving a prima facie case of obviousness for a 103(a) rejection. The Examiner has not met the burden of proving a prima facie case for claims 16-20, thus the rejection should be withdrawn and the claims should be allowed.

*Claims 16 and 18*

Regarding claims 16 and 18, the Examiner cites the same grounds of rejection as those discussed for claim 1 and the Examiner cites Rupe et al. as teaching that “responsive to the call at the top of the hold queue, allowing the caller to remain in the second hold queue or browsing session or transfer to the representative (page 3, [0029]-[0031]).” [Office Action, p. 5] The Examiner notes, however, that Rupe et al. does not teach “placing the call on hold in a second hold queue within the first hold queue, wherein calls placed in the second hold queue are answered in order by an expert.” [Office Action, p. 5] But, the Examiner cites the Abstract of Beyda et al. as teaching “a method and system for establishing and managing sub conference calls within a main conference call” and proposes that “when there are many sub conference requests, it would have been obvious to have a queue so that the requests can be processed in the order of conference ports availability.” [Office Action, p. 5] Further, the Examiner proposes that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features of establishing a second hold queue (“sub conference”) within the first hold queue (“main conference”), as taught by Beyda, in Rupe’s system, in order to have the second hold queue within the first hold queue so that the callers can be served systematically while on hold for an available representative.” [Office Action, p. 5]

Claim 16 currently reads:

16.(Original) A method for on hold queue management comprising:

AUS920010948US1

20

PATENT  
10/005,828

receiving a call from a caller at a call center;

placing said call on hold in a first hold queue until a representative of said call center is available to answer said call;

responsive to information needs of said caller, placing said call on hold in a second hold queue within said first hold queue, wherein calls placed in said second hold queue are answered in order by an expert; and

responsive to said call in position to be answered within said first hold queue, allowing said caller to remain in said second hold queue or transfer to said representative.

First, in establishing a *prima facie* case of obviousness under 103(a), the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986). Beyda teaches a main conference call system in which callers participating in the main conference call system broadcast to all the callers in the main conference and may also participate in a subconference system that occurs concurrently with the main conference system, but is only broadcast to those callers within the subconference. The Examiner concludes that first, it would have been obvious to have a queue to hold requests for subconference ports, however, there is no suggestion in Beyda that a queue to hold requests for subconference ports would be necessary. Further, the Examiner then equates the main conference call with a first hold queue and a subconference call with a second hold queue in a second conclusion about what would have been obvious. Applicants respectfully propose that neither of the conclusions made by the Examiner as to what would have been obvious are suggested by the references taken as a whole. Further, Rupe et al. and Walker et al. teach call centers in which calls are placed in hold

AUS920010948US1

21

PATENT  
10/005,828

queues and processed according to order within a hold queue. Thus, Applicants respectfully propose that there is no suggestion in any of the references to equate a conference call with a hold queue; a hold queue implies maintaining multiple calls separated in a particular order while conference calls imply a phone line in which multiple participants may concurrently converse.

Second, to rely on a reference as a basis for rejection under 35 USC 103(a), the reference must either be in the field of the applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention was concerned. *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). Applicants note that while Beyda and present invention are both related to telephony based invention, Beyda relates to conference call, which within telephony based inventions, are not in the same field as call center based inventions, such as the present invention. Further, the Examiner does not show how the main conference/subconference system of Beyda is pertinent to establishing multiple hold queues within a call center to control distribution of calls among experts while the caller remains waiting in the hold queue. Thus, Applicants propose that Beyda is not analogous art for purposes of 35 USC 103(a) and therefore is improperly relied upon by the Examiner.

Consequently, reversal of the Examiner's rejection of claim 16 and corresponding system claim 18 is respectfully requested.

*Claims 17 and 19*

Claims 17 and 19 are rejected for the same reasons as discussed with respect to claim 2.

Claim 17 currently reads:

17. (Original) The method for on hold queue management according to claim 16, wherein calls placed in said second hold queue are answered by a next available freelance expert from among a plurality of freelance experts.

In establishing a *prima facie* case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). Claim 2 only addresses the element of an expert as a "query group expert", although a "freelance expert" is also listed as an element in claim 2. Claim 17

PATENT  
10/005,828

teaches as expert as a “freelance expert.” Thus, where the Examiner rejects claim 17 for the same reason as claim 2, the Examiner fails to point out how the combined prior art references teach or suggest a “freelance expert.” Therefore, Applicants respectfully propose that the Examiner does not meet the burden of showing *prima facie* obviousness because the claimed invention is not taught by the combined references.

*Claim 20*

Claim 20 is rejected for the same reasons as discussed with respect to claim 16. Applicants respectfully propose that method claim 16 is allowable and therefore that the similar program claim 20 should also be allowed.

PATENT  
10/005,828

*Conclusion*

Applicants note the citation of pertinent prior art cited by the Examiner.

In view of the foregoing, withdrawal of the rejections and the allowance of the current pending claims is respectfully requested. If the Examiner feels that the pending claims could be allowed with minor changes, the Examiner is invited to telephone the undersigned to discuss an Examiner's Amendment.

Respectfully submitted,



Amy J. Pattillo  
Attorney for Applicants  
Registration No. 46,983  
(512) 402-9820

AUS920010948US1

24